

Appl. No. 10/685,323
Amdt. Dated May 9, 2006
Reply to Final Office Action of March 10, 2006

REMARKS

Claims 20, 22-27, and 37-41 are pending. Claims 20, 22-27, and 37-41 are rejected. No new matter is added with the present response.

Rejection of Claims 20, 22-27, and 37-41 under Nonstatutory Double Patenting

The Examiner rejected Claims 20, 22-27, and 37-41 under judicially created nonstatutory double patenting as being unpatentable over claims 1-13 of US 6,670,146 ('146) in view of US patent 5,858,358 ('358).

Without conceding to any characterizations in the rejection regarding the patentability of Claims 20, 22-27, and 37-41 under the '146 patent, and the interest of furthering the prosecution of the instant application, Applicants submit a Terminal Disclaimer over the '146 patent.

In view of the accompanying Terminal Disclaimer and in view of the fact that the '358 patent teaches a method of stimulating and proliferating CD4+ cells with anti-CD3 and anti-CD28 antibodies, but does not teach producing T cells that suppress the immune response by production of IL-10, Applicants believe this rejection is thus rendered moot. Withdrawal of this rejection is respectfully requested.

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Conclusion


Applicant's current response is believed to be a complete reply to all the outstanding issues of the latest Office action. Further, the present response is a bona fide effort to place the application in condition for allowance or in better form for appeal. Accordingly, Applicant respectfully requests reconsideration and passage of the amended claims to allowance at the earliest possible convenience.

Applicant believes that no additional fees are due with this communication. Should this not be the case, the Commissioner is hereby authorized to debit any charges or refund any overpayments to DNAX Deposit Account No. 04-1239.

If the Examiner believes that a telephonic conference would aid the prosecution of this case in any way, please call the undersigned.

Respectfully submitted,

Dated: May 9, 2006

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